



**U.S. Department of Justice**  
Civil Division, Federal Programs Branch  
20 Massachusetts Avenue NW  
Washington, DC 20530

---

August 7, 2018

**By ECF**

The Honorable Jesse M. Furman  
United States District Judge  
Southern District of New York  
Thurgood Marshall Courthouse  
40 Foley Square  
New York, New York 10007

**USDC SDNY**  
**DOCUMENT**  
**ELECTRONICALLY FILED**  
**DOC #:** \_\_\_\_\_  
**DATE FILED: 08/15/2018**

Re: *State of New York, et al., v. U.S. Department of Commerce, et al.*, 18-cv-2921 (JMF)  
*N.Y. Immigration Coalition v. U.S. Dep't of Commerce*, 18-cv-5025 (JMF)

Dear Judge Furman:

Pursuant to this Court's Orders of August 4, 2018, No. 18-cv-5025 ECF No. 75 and No. 18-cv-2921 ECF No. 223, Defendants in the above two matters respectfully submit for the Court's *in camera* review three documents withheld from production as work product. These documents bear the Bates numbers 2034, 3888, and 3984, and copies are being produced to chambers with redactions made transparent for documents 2034 and 3984 (document 3888 was withheld in full). Defendants note that they have asserted that document 2034 is also protected under attorney-client privilege and documents 3888 and 3984 are also protected under the deliberative process privilege.

This Court's Orders ordered Defendants to produce eight challenged documents "withheld based on work product doctrine." Upon closer review, Defendants have withdrawn the designation of work product from five of those eight documents: documents with Bates numbers 1594, 1595, 2051, 2057, and 2507. However, those documents still retain the assertion of attorney-client privilege, which Defendants asserted in their original privilege log. Defendants will provide Plaintiffs with an updated privilege log reflecting the withdrawal of work product from these five documents.

Defendants will also provide Plaintiffs' counsel with a copy of this cover letter without the attached documents at issue.

Respectfully submitted,

CHAD A. READLER  
Acting Assistant Attorney General

BRETT A. SHUMATE  
Deputy Assistant Attorney General

JOHN R. GRIFFITHS  
Director, Federal Programs Branch

CARLOTTA P. WELLS  
Assistant Branch Director

/s/ Martin M. Tomlinson

KATE BAILEY  
GARRETT COYLE  
STEPHEN EHRLICH  
CAROL FEDERIGHI  
DANIEL HALAINEN  
REBECCA KOPPLIN  
MARTIN M. TOMLINSON  
Trial Attorneys  
United States Department of Justice  
Civil Division, Federal Programs Branch  
20 Massachusetts Ave., N.W.  
Washington, DC 20530  
Tel.: (202) 514-9239  
Fax: (202) 616-8470  
Email: kate.bailey@usdoj.gov

*Counsel for Defendants*

CC:

All Counsel of Record

Although Defendants' letter states "By ECF," they do not appear to have filed it on the docket. The Court sees no reason for the letter not to be docketed. The Clerk of Court, however, is directed to file and maintain the attached documents under seal.

SO ORDERED



August 14, 2018